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**GREENLEE, WINNER and SULLIVAN, P.C.**4875 Pearl East Circle, Suite 200  
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**FACSIMILE COVER SHEET**

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DATE: May 23, 2005  
TOTAL NO. PAGES: 3  
(including cover sheet)  
TO: Mail Stop Amendment  
U.S. Patent and Trademark Office  
FACSIMILE NUMBER: (703) 872-9306  
FROM: Donna M. Ferber  
RE: USSN 09/836,544  
Docket No. 11-88L

*If transmission is unclear, please telephone (303) 499-8080 immediately and ask for Marilyn*

**COMMENTS:**

See attached Response to Notice to Comply for filing and copy of the Notice

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**CONFIDENTIALITY NOTICE**

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 09/836,544 Confirmation No.: 6823  
Applicant : Brian Seed et al  
Filed : April 17, 2001  
Group Art Unit : 1644  
Examiner : M. DiBrino  
For : Rapid Immunoselection Cloning Method  
Docket No. : 11-88L  
Customer No. : 23713

## CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence, along with any other document referred to as being attached or enclosed, is being filed via facsimile to facsimile number 703-872-9306 addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

5/23/05  
Date

  
Marilyn J. Morris

## RESPONSE NOTICE TO COMPLY

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Notice to Comply with requirements for Patent Applications containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures mailed April 21, 2005, in which it is alleged that the previous response (filed January 15, 2005) lacked a sequence identifier at page 65, lines 25-26, Applicants respectfully note that the response included the appropriate amendment to add the sequence identifier.

## Summary of Telephonic Interviews

In a telephone conversations Aprils 28 and 29, 2005, as summarized in the

Interview Summary provided by facsimile on May 17, 2005, the Examiner indicated that she would vacate the Office Action/Notice to Comply mailed April 21, 2005 and that the requisite amendment had been overlooked in the January 2005 response.

#### Conclusion

In view of the foregoing, it is submitted that there is no submission of either Sequence Listing, amendment of the Specification or petition for extension of time due in response to the Office Action mailed April 21, 2005 and that this response does not necessitate the payment of any fees pursuant to 37 C.F.R. 1.16-1.17. If this is incorrect, please consider this response to include a petition for extension of time for the minimum amount required and charge any necessary fee due under the foregoing Rules to Deposit Account No. 07-1969.

If the enclosed amount is incorrect, please charge any deficiency or credit any overpayment to Deposit Account No. 07-1969.

Respectfully submitted,



Donna M. Ferber  
Reg. No. 33,878

Greenlee, Winner and Sullivan, P.C.  
4875 Pearl East Circle, Suite 200  
Boulder, Colorado 80301  
Telephone: (303) 499-8080  
Facsimile: (303) 499-8089  
Email: [winner@greenwin.com](mailto:winner@greenwin.com)  
Docket No. 11-88L  
May 23, 2005

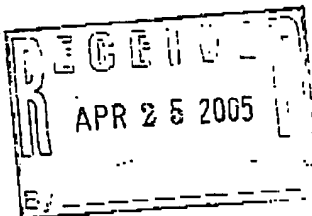


## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/836,544	04/17/2001	Brian Seed	11-88L	6823
<div style="display: flex; justify-content: space-between;"> <div> <p>23713 7590 04/21/2005</p> <p><b>GREENLEE WINNER AND SULLIVAN P C</b> 4875 PEARL EAST CIRCLE SUITE 200 BOULDER, CO 80301</p> </div> <div> <p><b>EXAMINER</b> DIBRINO, MARIANNE NMN</p> </div> </div>				
			ART UNIT	PAPER NUMBER
			1644	

DATE MAILED: 04/21/2005



Please find below and/or attached an Office communication concerning this application or proceeding.

**DOCKETED**  
*dmf*  
APR 26 2005

Greenlee, Winner, Sullivan



UNITED STATES DEPARTMENT OF COMMERCE  
U.S. Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

09/836,544

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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MAY 23 2005

EXAMINER
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ART UNIT	PAPER
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4152005

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Please find below a communication from the EXAMINER in charge of this application.

This application fails to comply with 37 C.F.R. 1.821-1.825 for the reason(s) listed on the Notice to comply with the sequence rules. The applicants are required to either submit a new CRF and Sequence Listing or a letter authorizing the use of the sequence listing filed with the prior application, along with a statement that the sequences in the two cases are identical.

37 C.F.R. 1.821 (e) A copy of the "Sequence Listing" referred to in paragraph © of this section must also be submitted in computer readable form in accordance with the requirements of § 1.824. The computer readable form is a copy of the "Sequence Listing" and will not necessarily be retained as part of the patent application file. If the computer readable form of a new application is to be identical with the computer readable form of another application of the applicant on file in the Office, reference may be made to the other application and computer readable form in lieu of filing a duplicate computer readable form in the new application. The new application shall be accompanied by a letter making such reference to the other application and computer readable form, both of which shall be completely identified.

(f) In addition to the paper copy required by paragraph © of this section and the computer readable form required by paragraph (e) of this section, a statement that the content of the paper and computer readable copies are the same must be submitted with the computer readable form. Such a statement must be a verified statement if made by a person not registered to practice before the Office.

Any inquiry concerning this communication should be directed to Examiner Marianne DiBrino, Art Unit 1644, whose telephone number is 571-272-0842.

APPLICANT IS GIVEN A ONE MONTH EXTENDABLE PERIOD WITHIN WHICH TO COMPLY WITH THE SEQUENCE RULES, 37 CFR 1.821 - 1.825. Failure to comply with these requirements will result in ABANDONMENT of the application under 37 CFR 1.821(g). Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136. In no case may an applicant extend the period for response beyond the six month statutory period. Applicant is requested to return a copy of the attached Notice to Comply with the response.

*Marianne DiBrino*  
Marianne DiBrino, Ph.D.

*Christina Chan*  
Christina Chan  
Patent Examiner  
Art Unit 1644

<b>Notice to Comply</b>	<b>Application No.</b> 09/836,544	<b>Applicant(s)</b> SEED ET AL	
	<b>Examiner</b> Marianne DiBrino	<b>Art Unit</b> 1644	

**NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES**

Applicant must file the items indicated below within the time period set the Office action to which the Notice is attached to avoid abandonment under 35 U.S.C. § 133 (extensions of time may be obtained under the provisions of 37 CFR 1.136(a)).

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

- ☒ 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998).
- ☐ 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).
- ☐ 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- ☐ 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."
- ☐ 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- ☐ 6. The paper copy of the "Sequence Listing" is not the same as the computer readable form of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).
- ☒ 7. Other: Applicant must provide a SEQ ID NO for the sequence appearing on page 65 at lines 25-26 of the specification.

**Applicant Must Provide:**

- ☒ An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".
- ☒ An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.
- ☒ A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:  
 For Rules Interpretation, call (703) 308-4216  
 For CRF Submission Help, call (703) 308-4212  
 PatentIn Software Program Support  
     Technical Assistance.....703-287-0200  
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**PLEASE RETURN A COPY OF THIS NOTICE WITH YOUR REPLY**